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Senate Engrossed

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

SENATE BILL 1081

AN ACT

AMENDING SECTIONS 43-223, 43-1088, 43-1089 AND 43-1089.01, ARIZONA REVISED STATUTES; RELATING TO INDIVIDUAL INCOME TAX CREDITS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 43-223, Arizona Revised Statutes, is amended to
3 read:

4 43-223. Requirements for new income tax credits established by
5 the legislature

6 Any new individual or corporate income tax credit that is enacted by
7 the legislature shall include in its enabling legislation:

8 1. A specific review year for the joint legislative income tax credit
9 review committee to review the credit. The specific review year shall be the
10 fifth full calendar year following the date the credit is enacted.

11 2. A purpose clause that explains the rationale and objective of the
12 tax credit.

13 3. A MAXIMUM AMOUNT FOR THE CREDIT ALLOWED MARRIED COUPLES THAT IS
14 TWICE THE MAXIMUM AMOUNT ALLOWED FOR SINGLE INDIVIDUALS OR HEADS OF
15 HOUSEHOLD. THIS PARAGRAPH APPLIES TO LEGISLATION ENACTED FROM AND AFTER
16 DECEMBER 31, 2005.

17 Sec. 2. Section 43-1088, Arizona Revised Statutes, is amended to read:

18 43-1088. Credit for contribution to charitable organization
19 that provides assistance to the working poor;
20 definitions

21 A. For taxable years beginning from and after December 31, 1997, a
22 credit is allowed against the taxes imposed by this title for voluntary cash
23 contributions made by the taxpayer during the taxable year to a qualifying
24 charitable organization as determined pursuant to subsection E of this
25 section, but not exceeding:

26 1. Two hundred dollars in any taxable year FOR A SINGLE INDIVIDUAL OR
27 A HEAD OF HOUSEHOLD.

28 ~~2. The two hundred dollar limitation applies to taxpayers who elect to~~
29 ~~file a joint return for the taxable year.~~ TWO HUNDRED FORTY DOLLARS IN
30 TAXABLE YEAR 2005 FOR A MARRIED COUPLE FILING A JOINT RETURN.

31 3. TWO HUNDRED EIGHTY DOLLARS IN TAXABLE YEAR 2006 FOR A MARRIED
32 COUPLE FILING A JOINT RETURN.

33 4. THREE HUNDRED TWENTY DOLLARS IN TAXABLE YEAR 2007 FOR A MARRIED
34 COUPLE FILING A JOINT RETURN.

35 5. THREE HUNDRED SIXTY DOLLARS IN TAXABLE YEAR 2008 FOR A MARRIED
36 COUPLE FILING A JOINT RETURN.

37 6. FOUR HUNDRED DOLLARS IN TAXABLE YEAR 2009 AND ANY SUBSEQUENT YEAR
38 FOR A MARRIED COUPLE FILING A JOINT RETURN.

39 B. A husband and wife who file separate returns for a taxable year in
40 which they could have filed a joint return may each claim only one-half of
41 the tax credit that would have been allowed for a joint return.

42 ~~B.~~ C. If the allowable tax credit exceeds the taxes otherwise due
43 under this title on the claimant's income, or if there are no taxes due under
44 this title, the taxpayer may carry forward the amount of the claim not used
45 to offset the taxes under this title for not more than five consecutive
46 taxable years' income tax liability.

1 ~~C.~~ D. The credit allowed by this section is in lieu of a deduction
2 pursuant to section 170 of the internal revenue code and taken for state tax
3 purposes.

4 ~~D.~~ E. Taxpayers taking a credit authorized by this section shall
5 provide the name of the qualifying charitable organization and the amount of
6 the contribution to the department of revenue on forms provided by the
7 department.

8 ~~E.~~ F. The credit under this section applies only to contributions to
9 qualifying charitable organizations that exceed the total amount deducted
10 pursuant to section 170 of the internal revenue code in the taxpayer's
11 baseline year. The taxpayer's baseline year is:

12 1. The 1996 taxable year if the taxpayer deducted charitable
13 contributions pursuant to section 170 of the internal revenue code in the
14 1996 taxable year.

15 2. If the taxpayer did not deduct charitable contributions pursuant to
16 section 170 of the internal revenue code in the 1996 taxable year, the
17 taxpayer's baseline year is the first taxable year after 1996 that the
18 taxpayer deducted charitable contributions pursuant to section 170 of the
19 internal revenue code.

20 ~~F.~~ G. A qualifying charitable organization shall provide the
21 department of revenue with a written certification that it meets all criteria
22 to be considered a qualifying charitable organization. The organization
23 shall also notify the department of any changes that may affect the
24 qualifications under this section. The department shall compile and make
25 available to the public a list of the qualifying organizations.

26 ~~G.~~ H. For THE purposes of this section:

27 1. "Low income ~~individuals~~ RESIDENTS" means persons whose household
28 income is less than one hundred fifty per cent of the federal poverty level.

29 2. "Qualifying charitable organization" means a charitable
30 organization that is exempt from federal income taxation under section
31 501(c)(3) of the internal revenue code or is a designated community action
32 agency that receives community services block grant program monies pursuant
33 to 42 United States Code section 9901. The organization must spend at least
34 fifty per cent of its budget on services to residents of this state who
35 receive temporary assistance for needy families benefits or low income
36 residents of this state and their households. Taxpayers choosing to make
37 donations through an umbrella charitable organization that collects donations
38 on behalf of member charities shall designate that the donation be directed
39 to a member charitable organization that would qualify under this section on
40 a stand-alone basis.

41 3. "Services" means cash assistance, medical care, child care, food,
42 clothing, shelter, job placement and job training services or any other
43 assistance that is reasonably necessary to meet immediate basic needs and
44 that is provided and used in this state.

45 Sec. 3. Section 43-1089, Arizona Revised Statutes, is amended to read:

1 43-1089. Credit for contributions to school tuition
2 organization; definitions

3 A. A credit is allowed against the taxes imposed by this title for the
4 amount of voluntary cash contributions made by the taxpayer during the
5 taxable year to a school tuition organization, but not exceeding:

6 1. Five hundred dollars in any taxable year for a single individual or
7 a head of household.

8 2. ~~Six hundred twenty-five~~ SEVEN HUNDRED dollars in ~~any~~ taxable year
9 2005 for a married couple filing a joint return.

10 3. SEVEN HUNDRED SEVENTY-FIVE DOLLARS IN TAXABLE YEAR 2006 FOR A
11 MARRIED COUPLE FILING A JOINT RETURN.

12 4. EIGHT HUNDRED FIFTY DOLLARS IN TAXABLE YEAR 2007 FOR A MARRIED
13 COUPLE FILING A JOINT RETURN.

14 5. NINE HUNDRED TWENTY-FIVE DOLLARS IN TAXABLE YEAR 2008 FOR A MARRIED
15 COUPLE FILING A JOINT RETURN.

16 6. ONE THOUSAND DOLLARS IN TAXABLE YEAR 2009 AND ANY SUBSEQUENT YEAR
17 FOR A MARRIED COUPLE FILING A JOINT RETURN.

18 B. A husband and wife who file separate returns for a taxable year in
19 which they could have filed a joint return may each claim only one-half of
20 the tax credit that would have been allowed for a joint return.

21 ~~B.~~ C. If the allowable tax credit exceeds the taxes otherwise due
22 under this title on the claimant's income, or if there are no taxes due under
23 this title, the taxpayer may carry the amount of the claim not used to offset
24 the taxes under this title forward for not more than five consecutive taxable
25 years' income tax liability.

26 ~~C.~~ D. The credit allowed by this section is in lieu of any deduction
27 pursuant to section 170 of the internal revenue code and taken for state tax
28 purposes.

29 ~~D.~~ E. The tax credit is not allowed if the taxpayer designates the
30 taxpayer's donation to the school tuition organization for the direct benefit
31 of any dependent of the taxpayer.

32 ~~E.~~ F. A school tuition organization that receives a voluntary cash
33 contribution pursuant to subsection A shall report to the department, in a
34 form prescribed by the department, by February 28 of each year the following
35 information:

36 1. The name, address and contact name of the school tuition
37 organization.

38 2. The total number of contributions received during the previous
39 calendar year.

40 3. The total dollar amount of contributions received during the
41 previous calendar year.

42 4. The total number of children awarded educational scholarships or
43 tuition grants during the previous calendar year.

44 5. The total dollar amount of educational scholarships and tuition
45 grants awarded during the previous calendar year.

6. For each school to which educational scholarships or tuition grants were awarded:

- (a) The name and address of the school.
- (b) The number of educational scholarships and tuition grants awarded during the previous calendar year.
- (c) The total dollar amount of educational scholarships and tuition grants awarded during the previous calendar year.

~~F.~~ G. For the purposes of this section:

1. "Handicapped student" means a student who has any of the following conditions:

- (a) Hearing impairment.
- (b) Visual impairment.
- (c) Preschool moderate delay.
- (d) Preschool severe delay.
- (e) Preschool speech or language delay.

2. "Qualified school" means a nongovernmental primary school or secondary school or a preschool for handicapped students that is located in this state, that does not discriminate on the basis of race, color, handicap, familial status or national origin and that satisfies the requirements prescribed by law for private schools in this state on January 1, 1997.

3. "School tuition organization" means a charitable organization in this state that is exempt from federal taxation under section 501(c)(3) of the internal revenue code and that allocates at least ninety per cent of its annual revenue for educational scholarships or tuition grants to children to allow them to attend any qualified school of their parents' choice. In addition, to qualify as a school tuition organization the charitable organization shall provide educational scholarships or tuition grants to students without limiting availability to only students of one school.

Sec. 4. Section 43-1089.01, Arizona Revised Statutes, is amended to read:

43-1089.01. Tax credit: public school fees and contributions: definitions

A. A credit is allowed against the taxes imposed by this title for the amount of any fees or cash contributions made by a taxpayer during the taxable year to a public school located in this state for the support of extracurricular activities or character education programs of the public school, but not exceeding:

1. Two hundred dollars for a single individual or a head of household.
2. Two hundred ~~fifty~~ EIGHTY dollars FOR TAXABLE YEAR 2005 for a married couple filing a joint return.
3. THREE HUNDRED TEN DOLLARS IN TAXABLE YEAR 2006 FOR A MARRIED COUPLE FILING A JOINT RETURN.
4. THREE HUNDRED FORTY DOLLARS IN TAXABLE YEAR 2007 FOR A MARRIED COUPLE FILING A JOINT RETURN.
5. THREE HUNDRED SEVENTY DOLLARS IN TAXABLE YEAR 2008 FOR A MARRIED COUPLE FILING A JOINT RETURN.

1 6. FOUR HUNDRED DOLLARS IN TAXABLE YEAR 2009 AND ANY SUBSEQUENT YEAR
2 FOR A MARRIED COUPLE FILING A JOINT RETURN.

3 B. A husband and wife who file separate returns for a taxable year in
4 which they could have filed a joint return may each claim only one-half of
5 the tax credit that would have been allowed for a joint return.

6 ~~B.~~ C. The credit allowed by this section is in lieu of any deduction
7 pursuant to section 170 of the internal revenue code and taken for state tax
8 purposes.

9 ~~C.~~ D. If the allowable tax credit exceeds the taxes otherwise due
10 under this title on the claimant's income, or if there are no taxes due under
11 this title, the taxpayer may carry the amount of the claim not used to offset
12 the taxes under this title forward for not more than five consecutive taxable
13 years' income tax liability.

14 ~~D.~~ E. The site council of the public school that receives
15 contributions that are not designated for a specific purpose shall determine
16 how the contributions are used at the school site. If a charter school does
17 not have a site council, the principal, director or chief administrator of
18 the charter school shall determine how the contributions that are not
19 designated for a specific purpose are used at the school site.

20 ~~E.~~ F. A public school that receives fees or a cash contribution
21 pursuant to subsection A of this section shall report to the department, in a
22 form prescribed by the department, by February 28 of each year the following
23 information:

24 1. The total number of fee and cash contribution payments received
25 during the previous calendar year.

26 2. The total dollar amount of fees and contributions received during
27 the previous calendar year.

28 3. The total dollar amount of fees and contributions spent by the
29 school during the previous calendar year, categorized by specific
30 extracurricular activity or character education program.

31 4. The total number of children who participated in each
32 extracurricular activity or character education program funded by the fees or
33 contributions during the previous calendar year, categorized by specific
34 extracurricular activity or character education program.

35 ~~F.~~ G. For the purposes of this section:

36 1. "Character education programs" means a program described in section
37 15-719.

38 2. "Extracurricular activities" means school sponsored activities that
39 require enrolled students to pay a fee in order to participate including fees
40 for:

41 (a) Band uniforms.

42 (b) Equipment or uniforms for varsity athletic activities.

43 (c) Scientific laboratory materials.

44 (d) In-state or out-of-state trips that are solely for competitive
45 events. Extracurricular activities ~~does~~ DO not include any senior trips or
46 events that are recreational, amusement or tourist activities.